

Remarks

Upon entry of the foregoing amendment, claims 12-30 are pending in the application, with claim 12 being the sole independent claim. Claims 1-11 were previously cancelled. Claims 15 and 16 were withdrawn from consideration by the Examiner. New claims 17-30 are sought to be added. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Support for new claims 17-30 can be found in the as-filed specification.

Based on the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

I. Rejoinder of Claims 15 and 16

Upon allowance of elected invention, Applicants respectfully request rejoinder of dependent claims 15 and 16 to the elected invention.

II. Rejection under 35 U.S.C. § 103(a)

Claims 12-14 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Lahm *et al.* (Int'l Patent Appl. Pub. No. WO 03/015518 A1) ("Lahm"). Applicants respectfully traverse this rejection.

A. *Prima facie Case of Obviousness Has Not Been Established*

As discussed in detail in Applicants' Replies filed October 30, 2009 and May 25, 2010, Lahm discloses compositions containing anthranilic acid amides and numerous mixing partners including, among numerous options, buprofezin, flonicamid or pirimicarb. (Lahm, page 96, line 23, through page 97, line 33; and claim 8). Thus, Lahm covers a long list of potential mixing partners for anthranilic acid amides which are of various chemical classes and mode of actions, whereas the captioned application is directed to a narrow selection of *synergistically effective* compositions of anthranilic acid amides and four mixing partners only. Lahm does not teach at all which mixing partners to choose from the list and in what mixing ratios to achieve *synergistically effective* compositions as claimed in the captioned application. Even the Examiner has acknowledged that "the reference does not provide any motivation to select this specific combination of variables (various insecticidal active compounds such as buprofezin, flonicamid and primicarb)." (Office Action of February 26, 2010, pages 4 and 5.)

In sum, for at least the reasons stated in Applicants' Replies filed October 30, 2009 and May 25, 2010, nothing in Lahm would lead a skilled person to provide a composition as defined in present claims 12-14. As such, the Examiner has not established a *prima facie* case obviousness of claims 12-14. Withdrawal of the rejection is respectfully requested.

B. *The Evidence of Synergistic Effects Rebuts Any Prima facie Case of Obviousness*

As discussed above, the Examiner has not established a *prima facie* case of obviousness of present claims 12-14. Moreover, on October 30, 2009, Applicants

submitted a Declaration Under 37 C.F.R. § 1.132 by Dr. Wolfram Andersch ("the Declaration") to provide further evidence of synergistic effects obtained with claimed compositions. The Examiner has acknowledged that "the declaration provides unexpected results in terms of showing synergism in controlling animal pests with the combination of the claimed compounds." (Office Action, page 6.) Synergistic effects have long been recognized as an indicator of non-obviousness. *See In Re Luvisi*, 144 U.S.P.Q. 646, 651-653 (CCPA 1965); *In re Lemin*, 408 F.2d 1045, 1049 (CCPA, 1969).

In summary, for at least the reasons stated in Applicants' Replies filed October 30, 2009 and May 25, 2010, Applicants have demonstrated synergistic effects of presently claimed compositions, at different mixing ratios, in controlling different insects, by more than one appropriate method. The evidence of synergistic effects rebuts the obviousness rejection of present claims 12-14, assuming a *prima facie* case of obviousness could have been established. Accordingly, Applicants respectfully request that the rejection be reconsidered and withdrawn.

With respect to new claims 17-30, Applicants submit that they would not have been obvious in view of Lahm or other cited art. These claims have more narrowly defined mixing ratios while Lahm does not cite any mixing ratios. Moreover, even if *prima facie* obvious, which they are not, the unexpected results achieved with the claimed invention, as described in the as-filed specification and the Declaration, overcome any basis for *prima facie* obviousness that the Examiner may assert. See page 25 (the as-filed specification); Tables A1, A2, B1, B2, C2 and D on pages 43, 45, 47 and 49 (the as-filed specification);

and Tables A, B3 and B4 on pages 3, 5 and 6 (the Declaration), which show the unexpected synergistic effect on good insecticidal and acaricidal properties.

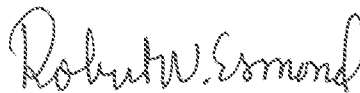
Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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